

Message Text

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ACTION EB-07

INFO OCT-01 ARA-10 ISO-00 IO-11 FEA-01 AGR-10 CEA-01

CIAE-00 COME-00 DODE-00 FRB-01 H-02 INR-07 INT-05

L-03 LAB-04 NSAE-00 NSC-05 PA-02 AID-05 CIEP-02 SS-15

STR-04 ITC-01 TRSE-00 PRS-01 SP-02 OMB-01 NSCE-00

SSO-00 USIE-00 INRE-00 SEC-01 AF-06 EA-09 EUR-12

NEA-10 OPIC-06 XMB-04 /149 W
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O R 052245Z MAR 76

FM AMEMBASSY LIMA

TO SECSTATE WASHDC IMMEDIATE 9187

INFO USUN NEW YORK 703

UNCLAS SECTION 1 OF 2 LIMA 2202

FOR EB - BOEKER ; L - FELDMAN; TREASURY - LANGE; COMMERCE ARRILL
CIEP BRANFIELD

DEPARTMENT PLEASE PASS USIA FOR IPS

FOR DELIVERY TO ADDRESSEES SATURDAY, MARCH 6

EO 11652: N/A

TAGS: OCON, ECOSOC, EFIN, PE

SUBJECT: UN COMMISSION ON TRANSNATIONAL CORPORATIONS -
USDEL RUBIN SPEECH AFTERNOON MARCH 5

USDEL (RUBIN) GAVE FOLLOWING SPEECH AFTERNOON OF MARCH
5. TEXT FOLLOWS:

THANK YOU, MR. CHAIRMAN. I WISH TO SPEAK IN GREATER
DETAIL ON A SUBJECT MY COUNTRY - AND OBVIOUSLY MANY OTHERS
JUDGE TO BE A MATTER OF THE UTMOST CONCERN AND IMPORTANCE
THE ISSUE OF CORRUPT PRACTICES, AN IMPORTANT ITEM IN OUR
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AGENDA.

IT IS CLEAR THERE IS AN INTERNATIONAL CONSENSUS ON THE NEED FOR ACTION IN THIS AREA, AND MY GOVERNMENT WISHES TO PUT FORWARD ITS VIEWS ON THIS SUBJECT AT THIS TIME. THE UNITED STATES HERE AND NOW CALLS FOR THE URGENT ESTABLISHMENT OF A WORKING GROUP WITH THE MANDATE OF NEGOTIATING A MULTILATERAL AGREEMENT TO DEAL WITH CORRUPT PRACTICES. GIVEN WHAT WE BELIEVE TO BE THE IMPORTANCE OF THIS SUBJECT, WE WISHED TO MAKE KNOWN OUR VIEWS AND THE REASONS FOR THEM AT THE EARLIEST POSSIBLE TIME IN ORDER THAT GOVERNMENTS MAY HAVE THE GREATEST AMOUNT OF TIME POSSIBLE TO CONSIDER AND THEN - WE HOPE - AGREE TO PARTICIPATE IN THIS ENDEAVOR.

THE BASIC POSITION OF THE UNITED STATES IS, I AM SURE, AT ONE WITH THE VIEWS OF ALL OTHER STATES. WE CANNOT CONDONE ILLEGAL ACTIVITIES BY AMERICAN - OR OTHER - FIRMS OPERATING IN THE INTERNATIONAL ARENA. WE CONDEMN SUCH ACTIONS IN THE STRONGEST TERMS. MOREOVER, SUCH CONDEMNATION IS NOT LIMITED TO WORDS. IT SHOULD NOT BE FORGOTTEN THAT INFORMATION ABOUT CORRUPT PRACTICES IN THE NEWS OVER THE PAST FEW MONTHS IS THE RESULT OF INVESTIGATIONS ON THE PART OF AGENCIES AND BRANCHES OF THE UNITED STATES GOVERNMENT OF AMERICAN COMPANIES AND THE SUBSEQUENT PUBLICIZING OF THE RESULTS OBTAINED. IN THIS REGARD, THE UNITED STATES IS SECOND TO NO COUNTRY IN EFFORTS TO REVEAL AND ELIMINATE CORRUPT INTERNATIONAL PRACTICES. THE UNITED STATES HAS FULLY SUPPORTED PERTINENT RESOLUTIONS IN THE OAS AND UN WHICH DEAL WITH SUCH ACTIVITIES. WHERE FOREIGN GOVERNMENTS HAVE ESTABLISHED POLICIES THAT CONTINGENT FEES ARE NOT TO BE ALLOWED IN FOREIGN MILITARY SALES, THE UNITED STATES GOVERNMENT HAS RESPONDED BY ADOPTING A REGULATION WITH RESPECT TO SUCH COUNTRIES THAT NO CONTINGENT FEE WILL BE ALLOWED AS AN ITEM FOR REIMBURSEMENT UNLESS IT IS SPECIFICALLY APPROVED IN ADVANCE BY THE PURCHASING GOVERNMENT.

WE HAVE SO ACTED BECAUSE WE FULLY RECOGNIZE THAT ILLEGAL ACTIVITIES ARE ETHICALLY WRONG, THEIR DISCLOSURE CAN UNFAIRLY TARNISH THE REPUTATION OF RESPONSIBLE BUSINESSMEN, THEY HAVE ADVERSE EFFECTS ON POLITICAL AND ECONOMIC RELATIONS BETWEEN STATES AND CREATE AN ATMOSPHERE PREJUDICIAL TO THE LEGITIMATE POLITICAL AND ECONOMIC ACTIVITIES IMPORTANT TO THE WELL BEING

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AND DEVELOPMENT OF ALL STATES. HOWEVER, IT IS ALSO CLEAR THAT HOST AS WELL AS HOME STATES HAVE RESPONSIBILITIES IN THIS AREA SUCH AS TO SET OUT CLEARLY THE RULES UNDER WHICH FIRMS AND PUBLIC OFFICIALS DEAL WITH EACH OTHER AND TO ENFORCE THESE RULES FIRMLY AND EVEN-HANDEDLY. PAYMENTS MAY BE SOLICITED OR DEMANDED BY OFFICIALS AND THOSE WHO MAKE SUCH DEMANDS OR RECEIVE ILLEGAL PAYMENTS MUST BE CONDEMNED NO LESS STRONGLY THAN THOSE WHO

OFFER OR MAKE ILLEGAL PAYMENTS. FINALLY, IT NEED TO NOTED
THAT THESE PROBLEMS ARE NOT CONFINED TO AMERICAN ENTERPRISES
ALONE.

INDEED, THE PROBLEM OF CORRUPT PRACTICES IS NOT FUN-
DAMENTALLY A PROBLEM NECESSARILY RELATED TO TNC'S AT ALL,
BUT IS RATHER BOTH A TRADE AND INVESTMENT PROBLEM AS WIT-
NESSED BY THE FACT THAT MANY OF THE IMPROPER ACTIVITIES DIS-
CLOSED IN REGARD TO AMERICAN COMPANIES WERE IN CONNECTION
WITH THE SALE OF GOODS TO GOVERNMENTS BY ENTERPRISES WHICH
ARE NOT TNC'S AT ALL, BUT RATHER DOMESTIC ENTITIES WHICH
ENGAGE IN INTERNATIONAL SALES.

THE DIMENSIONS OF THE PROBLEM ARE, THEREFORE, VISIBLE-
AND IT IS TIME THAT CONCRETE WORK ON SOLUTIONS BEGIN. OUR
VIEWS IN THIS REGARD ARE LARGELY SIMILAR TO THOSE EXPRESSED
BY THE DISTINGUISHED DELEGATE IN HIS STATEMENT OF WEDNESDAY -
AND THIS IS APPROPRIATE, FOR IRAN IS ANOTHER COUNTRY WHICH -
AS NOTED BY ITS DISTINGUISHED DELEGATE - HAS NOT ONLY STUDIED
THE ISSUE BUT HAS ALSO TAKEN IMPORTANT STEPS AT THE NATIONAL
LEVEL AIMED AT ELIMINATING THE PROBLEM OF CORRUPT PRACTICES.

MR. PARSI STATED THAT, AT THE NATIONAL LEVEL, IT IS
ESSENTIAL THAT GOVERNMENTS TAKE ALL NECESARY MEASURES,
INCLUDING LEGISLATION, TO PROHIBIT AND PENALIZE ILLEGAL
ACTS TAKING PLACE WITHIN THEIR JURISDICTIONS. WE FULLY
AGREE WITH THIS CONCEPT AND APPROACH. IT IS PRIMARILY THE
OBLIGATION OF EACH STATE TO SET FORTH CLEAR RULES RELEVANT
TO ACTIVITIES WITHIN THEIR TERRITORIES.

MR. PARSI WENT ON TO NOTE THAT THE HOME COUNTRIES OF
TNC'S HAVE SPECIAL RESPONSIBILITIES, AND THAT THEY SHOULD
ENACT STRICT MEASURES, INCLUDING REQUIREMENTS FOR DISCLOSURE
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OF PAYMENTS, COMMISSIONS AND AGENTS FEES. THE UNITED STATES
ALSO BELIEVES THAT CORRUPTION CANNOT SURVIVE THE SUNLIGHT
OF PUBLIC DISCLOSURE, AND THE INFORMATION REGARDING SUCH
PAYMENTS, MADE IN CONNECTION WITH CERTAIN INTERNATIONAL
TRANSACTIONS, ARE INDEED ESSENTIAL.

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ACTION EB-07

INFO OCT-01 ARA-10 ISO-00 FEA-01 AGR-10 CEA-01 CIAE-00

COME-00 DODE-00 FRB-01 H-02 INR-07 INT-05 L-03 LAB-04

NSAE-00 NSC-05 PA-02 AID-05 CIEP-02 SS-15 STR-04

ITC-01 TRSE-00 PRS-01 SP-02 OMB-01 NSCE-00 SSO-00

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FM AMEMBASSY LIMA

TO SECSTATE WASHDC IMMEDIATE 9188

INFO USUN NEW YORK 704

UNCLAS SECTION 2 OF 2 LIMA 2202

FOR EB - BOEKER ; L - FELDMAN; TREASURY - LANGE; COMMERCE ARRILL
CIEP BRANFIELD

DEPARTMENT PLEASE PASS USIA FOR IPS

FOR DELIVERY TO ADDRESSEES STATUDAY, MARCH 6

HOWEVER, AS WE STATED PREVIOUSLY, THERE ARE RESPONSIBILITIES
INCUMBENT UPON HOST STATES WHICH HOME STATE DISCLOSURE REQUIRE-
MENTS CANNOT FULLY REPLACE. IT IS THE HOST COUNTRY WHICH
MUST ESTABLISH AND ENFORCE LEGISLATION DEALING WITH THE
PROBLEM, INCLUDING CLEAR RULES AS TO THE USE OF AGENTS IN
TRANSACTIONS WITH THE GOVERNMENT OF THE HOST COUNTRY. FOR
EXAMPLE, THE ESTABLISHMENT OF A LIST OF AGENTS APPROVED BY
THE GOVERNMENT FOR USE IN SUCH TRANSACTIONS APPEARS TO US
TO BE A USEFUL STEP, AS DOES THE REQUIREMENT THAT SUCH
AGENTS, AS WELL AS TNC'S DISCLOSE FEES AND COMMISSIONS
RECEIVED.

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THE NEED FOR ACTION IS THEREFORE AGREED UPON, AS ARE
CERTAIN STEPS WHICH WOULD BE MOST USEFUL IN THIS AREA.
THE QUESTION IS THUS POSED AS TO HOW BEST TO CARRY OUT THE
TASK ASSIGNED US IN RESOLUTION 1437 TO HAVE GOVERNMENTS

COOPERATE WITH EACH OTHER TO PREVENT CORRUPT PRACTICES.
WE BELIEVE THAT THE NEGOTIATION OF A MULTILATERAL AGREEMENT
IS THE APPROPRIATE MEANS OF PROCEEDING.

AS STATED BY SEVERAL OTHER DELEGATIONS, THERE ALREADY
EXISTS AMONG NATIONS PRACTICES, AS WELL AS A COMMUNITY OF
INTEREST IN THEIR ELIMINATION. THIS IS ALSO AN AREA WHERE
UNIFORM LEGISLATION WOULD BE OF UNDOUBTED ADVANTAGE IN DEALING
WITH THE ISSUE, AND A MULTILATERAL AGREEMENT WOULD BE AN
IMPORTANT STEP TOWARDS THIS END.

IN OUR VIEW, AN INTERNATIONAL AGREEMENT DEALING WITH
CORRUPT PRACTICES WOULD BE BASED ON THE FOLLOWING PRINCIPLES:

--IT WOULD APPLY TO INTERNATIONAL TRADE AND INVESTMENT
TRANSACTIONS WITH GOVERNMENT AND OTHER GOVERNMENTAL ACTIONS
AFFECTING INTERNATIONAL TRADE AND INVESTMENT AS
MAY BE AGREED;

-- IT WOULD APPLY EQUALLY TO THOSE WHO OFFER OR MAKE
IMPROPER PAYMENTS AND TO THOSE WHO REQUEST OR
ACCEPT THEM;

-- IMPORTING GOVERNMENTS WOULD AGREE TO
(1) ESTABLISH CLEAR GUIDELINES CONCERNING THE USE
OF AGENTS IN CONNECTION WITH GOVERNMENT PROCUREMENT
AND OTHER COVERED TRANSACTIONS AND
(2) ESTABLISH APPROPRIATE CRIMINAL PENALTIES FOR
DEFINED CORRUPT PRACTICES BY ENTERPRISES AND
OFFICIALS IN THEIR TERRITORY;

-- ALL GOVERNMENTS WOULD COOPERATE AND EXCHANGE INFORMATION
TO HELP ERADICATE CORRUPT PRACTICES;

--UNIFORM PROVISIONS WOULD BE AGREED FOR DISCLOSURE
BY ENTERPRISES, AGENTS, AND OFFICIALS OF POLITICAL
CONTRIBUTIONS, GIFTS, AND PAYMENTS MADE IN CONNECTION
WITH COVERED TRANSACTIONS.

WORK ON THE AGREEMENT SHOULD PROCEED AS RAPIDLY AS
POSSIBLE. THE MODALITIES FOR CARRYING ON THIS TASK SHOULD BE
FULLY DISCUSSED.

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WE DO NOT BELIEVE IT NECESSARY OR USEFUL TO SUBMIT A
RESOLUTION CONTAINING OUR INITIATIVE. THIS PROCEDURE WOULD
ONLY DELAY THE OTHER WORK OF THE COMMISSION. WE WOULD HOPE
THAT OTHER DELEGATIONS CAN SUPPORT THE SPIRIT AND THRUST OF
OUR PROPOSAL AND THAT SUITABLE LANGUAGE WILL BE CONTAINED
IN THE FINAL REPORT OF THIS MEETING PROVIDING A MANDATE FOR
THE WORK TO BEGIN.

THE TIME FOR MERE TALK IS OVER. EFFECTIVE ACTION IS
NOW NEEDED.

THANK YOU, MR. CHAIRMAN.

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